

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

JOHN ROLAND,	)	
	)	
Plaintiff,	)	
	)	
	)	No. CIV-16-179-D
v.	)	
	)	
OKLAHOMA CORRECTIONAL	)	
INDUSTRIES, et al.,	)	
	)	
Defendants.	)	

SUPPLEMENTAL REPORT AND RECOMMENDATION

On February 24, 2016, Plaintiff, a state prisoner appearing *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983. On February 25, 2016, the matter was referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B).

On July 8, 2016, the undersigned entered an Order Requiring Service and Special Report. The Order directed Plaintiff to complete the necessary service papers for the three named Defendants and furnish those service papers to the Clerk of the Court within 21 days of the date of the Order. Plaintiff subsequently submitted a request for the issuance of one summons to be served upon Defendant Thompson. The Court's record reflects that a return was filed by the United States Marshals Service stating that Defendant Thompson was served with process on August 29, 2016. Defendant Thompson filed an answer to the Complaint

on October 28, 2016. On October 31, 2016, the undersigned entered an Order advising Plaintiff of the undersigned's intention to recommend the dismissal of this action without prejudice as to Defendants Oklahoma Correctional Industries and Oklahoma Department of Correction unless Plaintiff showed good cause for his failure to serve these Defendants by November 21, 2016. Plaintiff has failed to respond to the Order to show cause.

On October 31, 2016, the undersigned entered an Order establishing a dispositive motion deadline in this case of November 30, 2016. To this date, no party has filed a dispositive motion or sought an additional extension of time to do so. Therefore, as the time allotted to the parties for filing dispositive motions has expired, and there are no pending motions in this action, the referral of this action to the undersigned pursuant to 28 U.S.C. §636(b)(1)(B) should be vacated and the matter should be set for trial.

#### RECOMMENDATION

Based on the foregoing findings, it is recommended that the referral of this action to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) be vacated and the matter be set for trial. The parties are advised of their respective right to file an objection to this Supplemental Report and Recommendation with the Clerk of this Court by December 28<sup>th</sup>, 2016, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. The failure to timely object to this Supplemental Report and Recommendation would waive appellate review of the recommended ruling. Moore v. United States, 950 F.2d 656 (10<sup>th</sup> Cir. 1991); cf. Marshall v. Chater, 75 F.3d 1421, 1426 (10<sup>th</sup> Cir. 1996) (“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”).

This Supplemental Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter, and any pending motion not specifically addressed herein is denied.

ENTERED this 8<sup>th</sup> day of December, 2016.



GARY M. PURCELL  
UNITED STATES MAGISTRATE JUDGE